

# Exhibit 7

FORMAL COMPLAINT OF DISCRIMINATION		(Agency Use Only) AGENCY DOCKET NO. 03-62813-001
1. Name of Complainant (Last, First, MI) KAOPUA, Milton K.	2. Are you being represented? <input checked="" type="checkbox"/> YES (If so, complete 2a-2c below) <input type="checkbox"/> NO (Continue with Question No. 3)	
1a. Address (incl: City, State, Zip) 84-710 Kili Drive, #1313 Waianae, Hawaii 96792	2a. Name of Representative Elbridge W. Smith  2b. Address (incl: City, State, Zip) SMITH HIMMELMANN, AAL, ALC 841 Bishop Street, Suite 909 Honolulu, Hawaii 96813 808-523-5050	
1b. Home Telephone (incl: area code)  808-695-5199	2c. Work Telephone (incl: area code)  Comm: (808) 668-3420 DSN:	
Are you now working for the Department of the Navy?  <input checked="" type="checkbox"/> YES (Complete 3a-3b) <input type="checkbox"/> NO (Continue with Question No. 4)	3a. Name of Activity where you work:  Federal Fire Station #111 Bldg.  3b. Street Address of your activity (incl: City, State, Zip) 441 Kolehale Road Waianae, HI 96792	
4. Present Job Title, Series and Grade: Federal Fire Captain - GS-07		
5. Name and address of Navy Activity you believe discriminated against you (if different from 3a-3b):  Federal Fire Department, 850 Ticonderoga St, Ste 106, Pearl Harbor, HI COMNAVREG - Hawaii HRO (OWCP & Labor Advisor), Pearl Harbor, HI		
6. Date(s) on which most recent alleged discrimination occurred:  Month      ongoing      Day      Year		

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<b>FORMAL COMPLAINT OF DISCRIMINATION</b>		(Agency Use Only) AGENCY DOCKET NO. 03-62813-001	
7. You believe you were discriminated against on the basis of your: (Check below)			
<input checked="" type="checkbox"/>	RACE (If so, state your race) Hawaiian	<input checked="" type="checkbox"/>	NATIONAL ORIGIN (If so, state origin) Hawaiian
<input type="checkbox"/>	COLOR (If so, state your color)	<input type="checkbox"/>	SEX ___ Male ___ Female
<input checked="" type="checkbox"/>	RELIGION (If so; state your religion) Christian	<input type="checkbox"/>	AGE Date of Birth
<input checked="" type="checkbox"/>	DISABILITY (Please describe) X Mental _____ Physical		
<input type="checkbox"/>	REPRISAL (If so, date and description of prior protected activity)		
8. Have you discussed your complaint with an EEO Counselor? <div style="margin-left: 40px;"> <input checked="" type="checkbox"/> YES      <input type="checkbox"/> NO         </div> <div style="margin-left: 40px;">           Name of Counselor: David Gill            Date of Initial EEO Contact: August 8, 2002            Date of Final Interview: September 19, 2002         </div>			
9. EXPLAIN SPECIFICALLY HOW YOU WERE DISCRIMINATED AGAINST (That is, treated differently from other employees or applicants, because of your race, color, religion, sex, national origin, age, mental or physical disability, or reprisal.) (If your complaint involves more than one allegation, list and number each allegation separately and furnish specific, factual information in support of each.)  Allegation No. 1 (include basis(es) (See Question No. 7):  For several years and most recently last year and continuing to present (last month) I was harassed, belittled and threatened by another supervisor and despite my several reports and complaints to other managers and personnel, the Agency has continuously and repeatedly failed to take prompt and effective corrective action to halt these acts against me.			

(Cont) →

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(Use additional sheets if necessary)

10. WHAT SPECIFIC CORRECTIVE ACTION DO YOU WANT TAKEN ON YOUR COMPLAINT?  
(If your complaint involves more than one allegation, state corrective action desired for each separate allegation.)

Make me whole, protect me, accommodate my medical condition, take corrective action against those who threatened me and protect him, pay compensatory damages and attorney fees, restore leave and back pay.

11. WITH REGARD TO THE ALLEGATIONS DESCRIBED IN Question No. 9, HAVE YOU:

- ☐ filed a grievance through the negotiated grievance procedure?  
If so, date filed \_\_\_\_\_.
- ☐ filed an appeal with the Merit Systems Protection Board? If so,  
date filed \_\_\_\_\_.
- ☐ filed a civil action in U.S. District Court? If so, date filed \_\_\_\_\_.

12. Signature of Complainant

*Milton K. Ruffner*

13. Date Signed

OCT - 3 2002

14a. Received by:

*Suzie Yasuda*

(Signature)

b. Typed Name & Title

Suzie Yasuda  
EEO Assistant

c. Activity Name and Address:

COMMANDER NAVY REGION HAWAII  
CODE N01CP.2 EEO

517 RUSSELL AVE STE 110  
PEARL HARBOR HI 96860-4884

15. Complaint was:

☐ Mailed:

Postmark date \_\_\_\_\_

Received date \_\_\_\_\_

☒ Hand Delivered ☐ Facsimile

Date 3 OCT 02

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10-03-02 Formal Complaint of Discrimination

Attachment

#9. Explain specifically how you were discriminated against.

My bases for all my allegations are listed above (No. 7).

**Allegation No. 1: (cont)**

Since October 2001 when my life was directly threatened by Fire Capt Abad to a Lualualei Base police officer, the Agency has failed to take prompt and effective action to protect my safety and welfare, to prevent further threats (which just recently occurred), despite specific requests and notice from me, from my doctors and my attorney; instead of accommodating my injury condition, the Fire Department made matters worse, lengthening my illness and suffering by punishing me, my crew and rewarding Capt Abad. It is still failing to do so and even respond as of this filing. Its Labor Advisor and the Navy JAG reviewing my case records have both responded "this is personal between you and Abad, not employment related."

On 10-17-01 Chief DeLaura called me and told me "What's the problem between you and Abad?" I told him, "I don't have a problem, he has a problem. He threatened me. Why don't you go down to the Base Police Station and talk to them. They can give you information on the threat that Abad made against me." I asked him to follow-up on the threat. He never got back to me on that. No one did. Because the Chiefs showed no concern for my safety or my life, I had to take my own actions by going down to the District Court and putting a TRO on Capt Abad for my protection. The TRO was granted and the judge has told him to stay away from me and leave me alone.

On or about 11-4-01 I informed Chief DeLaura that I have a TRO on Capt Abad. After hearing that, he said, "What? Well, I'm going to transfer you." I said, "What? You mean you going to transfer me? I wasn't the one who did the threat. I thought you was suppose to be my Chief. I didn't threaten to shoot anybody, transfer Abad. He made the threat." At that point Chief DeLaura would only say "I'll see what I can do." But about 11-12-01 when I spoke with Chief DeLaura again, he told me that I was going to be transferred to Station 14B. I asked him what about Abad? He said, "I don't know what we're going to do with him yet." Then on or about 11-20-01, I spoke with Chief DeLaura again and he said, "Oh by the way, Kaopua, your transfer to station 14B is solid and it will be effective 12-02-01. Because you have a Restraining Order on Abad, both of you cannot be on the same shift. That's why I put you at Station 14B." Station 14 is a long, long way from my home and normal work Station 11.

**Allegation No. 2:**

For several years and most recently last year and continuing to present (last month), I was again and again harassed, belittled and now threatened by Capt. Abad, despite my several reports and complaints to other managers and personnel; in addition the agency has continuously and repeatedly failed to take prompt and effective corrective action to halt these acts against me. See my additional statements to the EEO counselor for most current incidents.

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When I told Chief Jones (and others in management) on Oct. 25, 2001 about the death threat that Captain Abad made toward me, at that point and time they showed no concern, no remorse, nothing to assure me of my safety or well being as a Fire Captain in one of his Fire Stations. I also told them that Capt Abad has not spoken to me from 10-10-01 to present and that I fear for my life, because I don't know what his intentions are or what he is capable of doing. I now know Capt. Abad had an illegal firearm which I understand he turned into Honolulu Police when they served him with the TRO; so he was capable of shooting me as he threatened. Did they know that? Did they try to find out? At that point Chief Jones didn't tell me if they were going to take any actions or do an investigation, or at least tell me something so that I can have some kind of security while I am at work. Just knowing that they will be taking care of this problem would have made me feel safe. Neither I nor my doctors have ever been told that the Fire Dept. was investigating any of this or taking any actions to protect or accommodate me.

But instead of encouraging words, his and the Deputy Chief's response was a very heartless way. "I don't know who I'm going to transfer." Then he stands up, walks to the apparatus deck and calls all my men out and tells them he's going to transfer Firefighters starting with Captains. At that point, it was like driving a knife right through my heart, which caused me to have hatred, anger, bitterness, anxiety, depression and most of all fear for my life because by saying that it showed me that they really didn't care if Capt. Abad did follow through with his death threat and shot me. I truly felt that, for them it would have been "Oh, one less Hawaiian to deal with."

I say that because when I was on furlough one of my men Davey Reid who is also Hawaiian, died while on duty and my other man Reed Okimoto was critically injured. When I returned to work, they kept me in the dark. No one would give me any information about the incident and I was their supervisor. They kept everything "hush, hush!" All I know was that acting Capt. Lake was never transferred out of his station and he was responsible for the death of one of my men and the other being critically injured. So this tells me if Capt Abad was to shoot me, they would keep everything "hush, hush!" and not do anything to him like they are doing right now, NOTHING!

Another example; I had been talking to Abad, before this ice maker and threatening incident, asking him to take care of certain problems that are happening on his shift, so that it doesn't escalate onto my shift. Instead he turns around and tells me, "Gee Kaopua, you making my shift look bad." I told him I'm not making your shift look bad. All I ask is that you take care of the problems on your shift because my men were complaining to me about his problems escalating on our Shift. Instead of taking care of the problem, he complained to Chief DeLaura.

Then as of Sept, 2001, Chief DeLaura became my Chief on my shift, which is A Shift, and it got worse. Capt Abad and I were on opposite shifts, I was on 11A and Abad was on 11B. Capt Abad has been at Station 11B for 9 years under Chief DeLaura. Any complaints Capt Abad had about anybody or anything he would complain to Chief DeLaura and Chief DeLaura would take care of the problem for him, making sure that Abad was always right and never had any faults against him even though he was wrong or he was the problem. Chief DeLaura has

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protected Capt. Abad from his misdeeds and illegal activities in the past and now this time again. Capt. Abad got me counseled in the past when he allowed one of my men to illegally sleep on his Shift. Chief DeLaura knew about Capt. Abad's use of government time and property to raise his pigs (which damaged the property), his fish and snails, his use of the government ice for his fishing friends and attempts to prevent our Shift and other government workers from using it. Then he and his superiors failed to protect me, failed to investigate, failed to discipline Abad and instead see that I am transferred and punished instead.

And instead I am just recently informed that I am to be put under his thumb to control and punish me instead. And Capt. Abad is being put back on Chief DeLaura's shift for further protection. Because Chief DeLaura condones all the illegal activities that Capt. Abad is doing at Station 11 and also violating rules and regulations, I blame Chief DeLaura for Capt Abad's threat to shoot me. I fear going back to work under his direct control, because he will again not protect me.

**Allegation No. 3:**

During the period of time since October 2001 and continuing to present my OWCP claims have been delayed, mis-processed and interfered with so as to delay, deny and limit my benefits and amount of compensation. The agency was late in giving me the claim form after the October 2001 trauma threat, failed to complete and timely forward my OWCP claim form in December 2001 and again in January 2002, and repeatedly in 2002 failed to properly process my CA-7s and has still to this day failed to supply OWCP with my correct earnings and leave information, which delayed and partially denied my compensation.

On 10-27-01 I called Station 5 and spoke to Acting Chief Kahawai. I informed him I was on stress leave because of a death threat that was made toward me by Capt Abad. I also told him to check with Lualualei Base Police and they will furnish him with the information that he needs. I also told him that I would like to be put on TI - OWCP. He then told me that he was going to put me on sick leave. I told him no, put me on OWCP. He insisted that he was going to put me on sick leave, because I didn't want to argue with him I just said, "Whatever, but I'm telling you that I want to be on TI," which is OWCP. I also informed Chief DeLaura on or about 11-04-01 that I wanted to be placed on TI and he also said that he was putting me on sick leave.

**Allegation No. 4:**

During this same period of time and continuing to the present, derogatory and demeaning remarks regarding my race/national origin and that of other Hawaiians, and remarks regarding my Christian religious faith, have been made which I believe reflect and demonstrate management animosity towards me and further explain their failures to protect me and to interfere with my rights and benefits. For example, on or about 11-4-01, I informed Chief DeLaura that my doctor wanted to know the status on Abad and what was being done to protect me. Chief DeLaura told me I should not bother about Capt. Abad, he is good man. "You know

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Kaopua, Abad relieves you to go to church." I told him, "Hey, wait a minute, don't talk about church. My church has nothing to do with this." There have been other remarks about my Christian religion and negative remarks and acts about and against Hawaiians, one of which I mentioned above.

**Allegation No. 5:**

Since October 2001 and continuing to present the Agency has failed to inform me of correct advance sick leave procedures and rights and of leave transfer program procedures and rights, has failed to timely and properly process my requests, denying me advance sick leave to which I am entitled and denying me full and proper leave transfer, including not posting my eligibility and informing other employees who wanted to donate that I was not eligible. My attorney had to call and get information from the Labor Relations Specialist Hazel Wong, who gave him the wrong (out dated) forms. Then she wrongfully reported that my request for leave had been posted at all stations, only making the correction when it was proven she was wrong; then she specifically told other Navy agency personnel that I was not eligible for leave transfer and I did not receive that offered leave, until she was again proven wrong just within the past month. All these errors have and continue to cost me lost pay, lost leave and attorney fee expenses to fix.

from - \$ 2000